

## CHAPTER 1702. PRIVATE SECURITY

(NOTE: Strike-throughs in this document are provisions of this chapter that have been determined to be not applicable to PERS providers.)

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 1702.001. Short Title

This chapter may be cited as the Private Security Act.

#### § 1702.002. Definitions

In this chapter:

- (1) "Alarm system" means an alarm system, burglar alarm signal device, burglar alarm, robbery alarm, television camera, or still camera used to signal the presence of an emergency to which law enforcement or emergency services are expected to respond.
- (2) "Branch office" means an office that is:
  - (A) identified to the public as a place from which business is conducted, solicited, or advertised; and
  - (B) at a place other than the principal place of business as shown in commission records.
- (3) "Branch office license" means a permit issued by the commission that entitles a person to operate at a branch office as a security services contractor or investigations company.
- (4) "Commission" means the Texas Commission on Private Security.
- (5) "Commissioned security officer" means a security officer to whom a security officer commission has been issued by the commission.
- (6) "Detection device" means an electronic device used as a part of a burglar or robbery alarm, including a control, communications device, motion detector, door or window switch, sound detector, vibration detector, light beam, pressure mat, wiring, or similar device.
- (7) "Extra job coordinator" means a peace officer who:
  - (A) is employed full-time by the state or a municipality; and
  - (B) schedules other peace officers to provide guard, patrolman, or watchman services in a private capacity who are:
    - (i) employed full-time by the state or a municipality; and
    - (ii) not employed by the extra job coordinator.
- (8) "Firearm" has the meaning assigned by Section 46.01, Penal Code.
- (9) "Insurance agent" means:
  - (A) a person licensed under Article 1.14-2 or 21.14, Insurance Code;
  - (B) a salaried, state, or special agent; or
  - (C) a person authorized to represent an insurance fund or pool created by a local government under Chapter 791, Government Code.
- (10) "Investigations company" means a person who performs the activities described by Section 1702.104.
- (11) "Letter of authority" means a permit issued by the commission that entitles the security department of a private business or a political subdivision to employ a commissioned security officer.
- (12) "License" means a permit issued by the commission that entitles a person to operate as a security services contractor or investigations company.
- (13) "License holder" means a person to whom the commission issues a license.
- (14) "Manager" means an officer or supervisor of a corporation or a general partner of a partnership who has the experience required by Section 1702.119 to manage a security services contractor or an investigations company.
- (15) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.
- (16) "Person" includes an individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity. Section 311.005(2), Government Code, does not apply to this subdivision.
- (17) "Personal protection officer authorization" means a permit issued by the commission that entitles an individual to act as a personal protection officer.
- (18) "Private investigator" means an individual who performs one or more services described by Section 1702.104.
- (19) "Registrant" means an individual who has registered with the commission under Section 1702.221.
- (20) "Registration" means a permit issued by the commission to an individual described by Section 1702.221.
- (21) "Security officer commission" means an authorization issued by the commission that entitles a security officer to carry a firearm.
- (22) "Security services contractor" means a person who performs the activities described by Section 1702.102.

#### § 1702.003. Application of Sunset Act

The Texas Commission on Private Security is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009.

#### § 1702.004. General Scope of Regulation

The commission, in addition to performing duties required by other law or exercising powers granted by other law:

- (1) licenses investigations companies and security services contractors;
- ~~(2) issues commissions to certain security officers;~~
- ~~(3) issues authorizations to certain security officers engaged in the personal protection of individuals;~~
- (4) registers:
  - (A) certain individuals connected with a license holder; and
  - (B) certain individuals employed in a field connected to private investigation or private security; and
- (5) regulates license holders, security officers, and registrants under this chapter.

### SUBCHAPTER B. TEXAS COMMISSION ON PRIVATE SECURITY

#### § 1702.021. Commission Membership

~~(a) The Texas Commission on Private Security consists of nine members appointed by the governor with the advice and consent of the senate as follows:~~

- ~~(1) five public members, each of whom is a citizen of the United States;~~
- ~~(2) one member who:~~
  - ~~(A) is licensed under this chapter as a private investigator;~~
  - ~~(B) has been engaged as a private investigator for at least the five years preceding appointment; and~~
  - ~~(C) is not employed by a person who employs another member of the commission;~~
- ~~(3) one member who is licensed under this chapter as an alarm systems company and who:~~
  - ~~(A) has been engaged as an alarm systems company for at least the five years preceding appointment; and~~
  - ~~(B) is not employed by a person who employs another member of the commission;~~
- ~~(4) one member who:~~
  - ~~(A) is licensed under this chapter as the owner or operator of a guard company;~~
  - ~~(B) has been the owner or operator of the guard company for at least the five years preceding appointment; and~~
  - ~~(C) is not employed by a person who employs another member of the commission; and~~
- ~~(5) one member who:~~
  - ~~(A) holds a license, security officer commission, or registration under this chapter;~~
  - ~~(B) has been engaged in activity regulated by the commission under this chapter for at least the five years preceding appointment; and~~
  - ~~(C) is not employed by a person who employs another member of the commission.~~

~~(b) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.~~

~~(c) On presentation by a commission member of the constitutional oath taken by the member, together with the certificate of appointment, the secretary of state shall issue a commission to the member as evidence of the member's authority to act as a commission member.~~

#### § 1702.022. Ex Officio Commission Member

~~(a) The director of the Texas Department of Public Safety serves as an ex officio member of the commission during the director's term of office and has the same powers and duties as other commission members.~~

~~(b) The director of the Texas Department of Public Safety may delegate to a personal representative from the department the duty to represent the director on the commission.~~

#### § 1702.023. Eligibility of Public Members

The commission's public members must be representatives of the general public. A person may not be a public member of the commission if the person or the person's spouse:

- ~~(1) is registered, commissioned, certified, or licensed by a regulatory agency in the field of private investigations or private security;~~
- ~~(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the commission;~~
- ~~(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the commission; or~~

(4) uses or receives a substantial amount of tangible goods, services, or money from the commission other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

#### § 1702.024. Membership and Employee Restrictions

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(b) A person may not be a commission member and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of private investigation or private security; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of private investigation or private security.

(c) A person may not be a commission member or act as general counsel to the commission or agency if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the agency.

#### § 1702.025. Terms; Vacancies

(a) The appointed commission members serve staggered six-year terms, with the terms of three appointed members expiring on January 31 of each odd-numbered year.

(b) If a vacancy occurs during the term of an appointed commission member, the governor shall appoint a new member to fill the unexpired term.

#### § 1702.026. Officers

(a) The governor shall designate one commission member as presiding officer to serve in that capacity at the will of the governor. The governor shall designate the presiding officer without regard to race, creed, color, disability, sex, religion, age, or national origin.

(b) The commission, including the representative of the director of the Texas Department of Public Safety if one is designated, shall elect from among its members an assistant presiding officer and a secretary to serve two-year terms beginning on September 1 of each odd-numbered year.

(c) The presiding officer of the commission or, in the absence of the presiding officer, the assistant presiding officer shall preside at each commission meeting and perform the other duties prescribed by this chapter.

#### § 1702.027. Grounds for Removal

(a) It is a ground for removal from the commission that a member:

(1) does not have the qualifications required by Section 1702.021 at the time of taking office;

(2) does not maintain the qualifications required by Section 1702.021 during service on the commission;

(3) is ineligible for membership under Section 1702.023 or 1702.024;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

#### § 1702.028. Per Diem; Reimbursement

(a) A commission member is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of the commission.

(b) A member is entitled to reimbursement for transportation expenses as prescribed by the General Appropriations Act. A member may not receive compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses.

#### § 1702.029. Meetings

The commission shall meet at regular intervals to be decided by the commission.

#### § 1702.030. Training

(a) A person who is appointed to and qualifies for office as a commission member may not vote, deliberate, or be counted as a member in attendance at a commission meeting until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) this chapter;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the commission;
- (6) the results of the most recent formal audit of the commission;
- (7) the requirements of:
  - (A) the open meetings law, Chapter 551, Government Code;
  - (B) the public information law, Chapter 552, Government Code;
  - (C) the administrative procedure law, Chapter 2001, Government Code; and
  - (D) other laws relating to public officials, including conflict of interest laws; and
- (8) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

### SUBCHAPTER C. DIRECTOR AND PERSONNEL

#### § 1702.041. Director

(a) The director is the chief administrator of the commission. The director shall perform duties as prescribed by the commission.

(b) The director is a full-time employee of the commission. A commission member may not serve as director.

#### § 1702.042. Personnel; Conflict of Interest

An employee of the commission may not:

- (1) have a financial or business interest, contingent or otherwise, in a security services contractor or investigations company;
- or
- (2) be licensed under this chapter.

#### § 1702.043. Division of Responsibilities

The commission shall develop and implement policies that clearly separate the policy making responsibilities of the commission and the management responsibilities of the director and staff of the commission.

#### § 1702.044. Qualifications and Standards of Conduct Information

The director or the director's designee shall provide to commission members and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

#### § 1702.045. Career Ladder Program; Performance Evaluations

(a) The director or the director's designee shall develop an intra-agency career ladder program. The program must require the intra-agency posting of each nonentry level position at least 10 days before any public posting.

(b) The director or the director's designee shall develop a system of annual performance evaluations. All merit pay for commission employees must be based on the system established under this subsection.

#### § 1702.046. Equal Employment Opportunity Policy; Report

(a) The director or the director's designee shall prepare and maintain a written policy statement that implements an equal employment opportunity program to ensure that all personnel decisions are made without regard to race, creed, color, disability, sex, religion, age, or national origin. The policy statement must include:

- ~~(1) personnel policies, including policies related to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and~~
- ~~(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with federal and state law and a description of reasonable methods to achieve compliance with federal and state law.~~
- ~~(b) The policy statement must:~~
  - ~~(1) be reviewed by the state Commission on Human Rights for compliance with Subsection (a)(1);~~
  - ~~(2) be updated at least annually; and~~
  - ~~(3) be filed with the governor.~~

#### SUBCHAPTER D. POWERS AND DUTIES OF COMMISSION

##### § 1702.061. General Powers and Duties of Commission

- (a) The Texas Commission on Private Security shall perform the functions and duties provided by this chapter.
- (b) The commission shall adopt rules and general policies to guide the agency in the administration of this chapter.
- (c) The rules and policies adopted by the commission under Subsection (b) must be consistent with this chapter and other commission rules adopted under this chapter and with any other applicable law, state rule, or federal regulation.
- (d) The commission has the powers and duties to:
  - (1) determine the qualifications of license holders, registrants, and commissioned security officers;
  - (2) investigate alleged violations of this chapter and of commission rules;
  - (3) adopt rules necessary to implement this chapter; and
  - (4) establish and enforce standards governing the safety and conduct of each person licensed, registered, or commissioned under this chapter.
- (e) The commission shall have a seal in the form prescribed by the commission.
- (f) The commission may commission investigators who are employed full-time by the commission as peace officers for the limited purpose of assisting the commission in investigating alleged violations of this chapter and of commission rules.

##### § 1702.062. Fees

- (a) The commission by rule shall establish reasonable and necessary fees that produce sufficient revenue to administer this chapter. The fees may not produce unnecessary fund balances and may not exceed the following amounts:

Class A license \$250  
 (original and renewal)  
 Class B license \$300  
 (original and renewal)  
 Class C license \$440  
 (original and renewal)  
 Reinstate suspended license \$150  
 Assignment of license \$150  
 Change name of license \$ 75  
 Delinquency fee \_\_\_\_\_  
 Branch office certificate and renewal \$200  
 Registration fee for private investigator, manager,  
 branch office manager, and alarm systems installer \$ 20  
 (original and renewal)  
 Registration fee for noncommissioned security officer \$ 25  
 (original and renewal)  
 Registration fee for security salesperson \$ 20  
 Registration fee for alarm systems monitor \$ 20  
 Registration fee for dog trainer \$ 20  
 Registration fee for owner, officer, partner, or  
 shareholder of a license holder \$ 50  
 Registration fee for security consultant \$ 55  
 Security officer commission fee \$ 50  
 (original and renewal)  
 School instructor fee \$100  
 (original and renewal)  
 School approval fee \$250

(original and renewal)

Letter of authority fee for private business and political subdivision \$300

Letter of authority renewal fee for private business and political subdivision \$225

FBI fingerprint check \$ 25

Duplicate pocket card \$ 10

Employee information update fee \$ 15

Burglar alarm sellers renewal fee \$ 25

Personal protection officer authorization \$ 50

(b) In addition to other fees established under this chapter, the commission may charge a fee each time the commission requires a person regulated under this chapter to resubmit a set of fingerprints for processing by the commission during the application process for a license, registration, or commission. The commission shall set the fee in an amount that is reasonable and necessary to cover the commission's administrative expenses related to processing the fingerprints.

#### § 1702.063. Commission Use of Fines

The fines collected under this chapter may not be used to administer this chapter.

#### § 1702.064. Rules Restricting Advertising or Competitive Bidding

(a) The commission may not adopt rules restricting advertising or competitive bidding by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of the person's personal voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

#### § 1702.0645. Payment of Fees and Fines

(a) The commission may adopt rules regarding the method of payment of a fee or a fine assessed under this chapter.

(b) Rules adopted under this section may:

(1) authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the commission; and

(2) require the payment of a discount or a reasonable service charge for a credit card payment in addition to the fee or the fine.

#### § 1702.065. Powers and Duties Relating to Alarm Systems Installers; Certificates of Installation

(a) The commission may interpret and issue an opinion resolving a question concerning the eligibility of an alarm system installation to comply with Article 5.33A, Insurance Code. A commission interpretation or opinion relating to general conditions or an individual installation is conclusive.

(b) The commission may authorize an alarm systems company to issue a certificate of installation showing that an installation complies with Article 5.33A, Insurance Code. An inspection otherwise required by the Insurance Code is not required if a certificate is issued under this section. The certificate must be furnished to the insurer, and the insurer shall determine whether the person's property is in compliance with Article 5.33A, Insurance Code, taking into consideration the installer's certificate and information from any other investigation the insurer determines to be appropriate.

#### § 1702.066. Service of Process; Service of Documents on Commission

Legal process and documents required by law to be served on or filed with the commission must be served on or filed with the director at the designated office of the commission.

#### § 1702.067. Commission Records; Evidence

An official record of the commission or an affidavit by the director as to the content of the record is prima facie evidence of a matter required to be kept by the commission.

#### § 1702.068. Appeal Bond Not Required

The commission is not required to give an appeal bond in any cause arising under this chapter.

#### ~~§ 1702.069. Annual Report~~

~~The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all money received and disbursed by the commission in the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.~~

### SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

#### § 1702.081. Public Interest Information

- (a) The commission shall prepare information of interest to consumers or recipients of services regulated under this chapter describing the commission's regulatory functions and the procedures by which complaints are filed with and resolved by the commission.
- (b) The commission shall make the information available to the public and appropriate state agencies.

#### § 1702.082. Complaints

- (a) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for that notice:
  - (1) on each registration form, application, or written contract for services of a person regulated under this chapter;
  - (2) on a sign prominently displayed in the place of business of each person regulated under this chapter; or
  - (3) in a bill for services provided by a person regulated under this chapter.
- (b) The commission shall maintain a file on each written complaint filed with the commission. The file must include:
  - (1) the name of the person who filed the complaint;
  - (2) the date the complaint is received by the commission;
  - (3) the subject matter of the complaint;
  - (4) the name of each person contacted in relation to the complaint;
  - (5) a summary of the results of the review or investigation of the complaint; and
  - (6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.
- (c) The commission shall provide to the person filing the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.
- (d) Unless it would jeopardize an undercover investigation, the commission shall provide to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.
- (e) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

#### § 1702.083. Public Participation

The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction.

#### § 1702.084. Public Access to Certain Records of Disciplinary Actions

- (a) The commission shall make available to the public through a toll-free telephone number, Internet website, or other easily accessible medium determined by the commission the following information relating to a disciplinary action taken during the preceding three years regarding a person regulated by the commission:
  - (1) the identity of the person;
  - (2) the nature of the complaint that was the basis of the disciplinary action taken against the person; and
  - (3) the disciplinary action taken by the commission.
- (b) In providing the information, the commission shall present the information in an impartial manner, use language that is commonly understood, and, if possible, avoid jargon specific to the security industry.
- (c) The commission shall update the information on a monthly basis.
- (d) The commission shall maintain the confidentiality of information regarding the identification of a complainant.

### SUBCHAPTER F. LICENSING AND DUTIES OF INVESTIGATIONS COMPANIES AND SECURITY SERVICES CONTRACTORS

#### ~~§ 1702.101. Investigations Company License Required~~

~~Unless the person holds a license as an investigations company, a person may not:~~

- ~~(1) act as an investigations company;~~
- ~~(2) offer to perform the services of an investigations company; or~~
- ~~(3) engage in business activity for which a license is required under this chapter.~~

#### ~~§ 1702.102. Security Services Contractor License Required; Scope of License~~

~~(a) Unless the person holds a license as a security services contractor, a person may not:~~

- ~~(1) act as an alarm systems company, armored car company, courier company, guard company, or guard dog company;~~
- ~~(2) offer to perform the services of a company in Subdivision (1); or~~
- ~~(3) engage in business activity for which a license is required under this chapter.~~

~~(b) A person licensed only as a security services contractor may not conduct an investigation other than an investigation incidental to the loss, misappropriation, or concealment of property that the person has been engaged to protect.~~

#### ~~§ 1702.103. Classification and Limitation of Licenses~~

~~(a) The license classifications are:~~

- ~~(1) Class A: investigations company license, covering operations of an investigations company;~~
- ~~(2) Class B: security services contractor license, covering operations of a security services contractor; and~~
- ~~(3) Class C: covering the operations included within Class A and Class B.~~

~~(b) A Class A, B, or C license does not authorize the license holder to perform a service for which the license holder has not qualified. A person may not engage in an operation outside the scope of that person's license. The commission shall indicate on the license the services the license holder is authorized to perform. The license holder may not perform a service unless it is indicated on the license.~~

~~(c) A license is not assignable unless the assignment is approved in advance by the commission.~~

~~(d) The commission shall prescribe by rule the procedure under which a license may be terminated.~~

#### ~~§ 1702.104. Investigations Company~~

~~A person acts as an investigations company for the purposes of this chapter if the person:~~

- ~~(1) engages in the business of obtaining or furnishing, or accepts employment to obtain or furnish, information related to:
  - ~~(A) crime or wrongs done or threatened against a state or the United States;~~
  - ~~(B) the identity, habits, business, occupation, knowledge, efficiency, loyalty, movement, location, affiliations, associations, transactions, acts, reputation, or character of a person;~~
  - ~~(C) the location, disposition, or recovery of lost or stolen property; or~~
  - ~~(D) the cause or responsibility for a fire, libel, loss, accident, damage, or injury to a person or to property;~~~~

~~(2) engages in the business of securing, or accepts employment to secure, evidence for use before a court, board, officer, or investigating committee;~~

~~(3) engages in the business of securing, or accepts employment to secure, the electronic tracking of the location of an individual or motor vehicle other than for criminal justice purposes by or on behalf of a governmental entity; or~~

~~(4) engages in the business of protecting, or accepts employment to protect, an individual from bodily harm through the use of a personal protection officer.~~

#### ~~§ 1702.105. Alarm Systems Company~~

~~A person acts as an alarm systems company for the purposes of this chapter if the person sells, installs, services, monitors, or responds to an alarm system or detection device.~~

#### ~~§ 1702.106. Armored Car Company~~

~~A person acts as an armored car company for the purposes of this chapter if the person provides secured and protected transportation of valuables, including money, coins, bullion, securities, bonds, or jewelry.~~

#### ~~§ 1702.107. Courier Company~~

~~A person acts as a courier company for purposes of this chapter if the person transports or offers to transport under armed guard an item that requires expeditious delivery, including a document, map, stock, bond, or check.~~

#### ~~§ 1702.108. Guard Company~~



~~A person acts as a guard company for the purposes of this chapter if the person employs an individual described by Section 1702.323(d) or engages in the business of or undertakes to provide a private watchman, guard, or street patrol service on a contractual basis for another person to:~~

- ~~(1) prevent entry, larceny, vandalism, abuse, fire, or trespass on private property;~~
- ~~(2) prevent, observe, or detect unauthorized activity on private property;~~
- ~~(3) control, regulate, or direct the movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to ensure the protection of property;~~
- ~~(4) protect an individual from bodily harm including through the use of a personal protection officer; or~~
- ~~(5) perform a function similar to a function listed in this section.~~

#### ~~§ 1702.109. Guard Dog Company~~

~~A person acts as a guard dog company for the purposes of this chapter if the person places, rents, sells, or trains a dog used to:~~

- ~~(1) protect an individual or property; or~~
- ~~(2) conduct an investigation.~~

#### § 1702.110. Application for License

An application for a license under this chapter must be in the form prescribed by the commission and include:

- (1) the full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification for which the applicant requests qualification;
- (5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer, and director of the applicant, and of the applicant's manager;
- (6) if the applicant is an individual, two classifiable sets of fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer and of each partner or shareholder who owns at least a 25 percent interest in the applicant;
- (7) a verified statement of the applicant's experience qualifications in the particular classification in which the applicant is applying;
- (8) a report from the Texas Department of Public Safety stating the applicant's record of any convictions for a Class B misdemeanor or equivalent offense or a greater offense;
- (9) the social security number of the individual making the application; and
- (10) other information, evidence, statements, or documents required by the commission.

#### § 1702.111. Issuance of Branch Office License

(a) A license holder, in accordance with Section 1702.129, shall notify the commission in writing of the establishment of a branch office and file in writing with the commission the address of the branch office.

(b) On application by a license holder, the commission shall issue a branch office license.

#### § 1702.112. Form of License

The commission shall prescribe the form of a license, including a branch office license. The license must include:

- (1) the name of the license holder;
- (2) the name under which the license holder is to operate; and
- (3) the license number and the date the license was issued.

#### § 1702.113. General Qualifications for License

(a) An applicant for a license or the applicant's manager must be at least 18 years of age and must not:

- (1) have been convicted in any jurisdiction of a Class A misdemeanor or equivalent offense or a greater offense, unless a full pardon has been granted for reasons relating to a wrongful conviction;
- (2) have been convicted in any jurisdiction of a Class B misdemeanor or equivalent offense for which the fifth anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction;
- (3) have been found by a court to be incompetent by reason of a mental defect or disease and not have been restored to competency;
- (4) be suffering from habitual drunkenness or from narcotics addiction or dependence; or
- (5) have been discharged from the United States armed services under other than honorable conditions.

(b) The commission may deny an application for a license if the applicant has been convicted in any jurisdiction of a Class B misdemeanor or equivalent offense if the fifth anniversary of the date of conviction has occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction.

#### ~~§ 1702.114. Additional Qualifications for Investigations Company License~~

~~(a) An applicant for a license to engage in the business of an investigations company or the applicant's manager must have, before the date of the application, three consecutive years' experience in the investigative field as an employee, manager, or owner of an investigations company or satisfy other requirements set by the commission.~~

~~(b) The applicant's experience must be:~~

~~(1) reviewed by the commission or the director; and~~

~~(2) determined to be adequate to qualify the applicant to engage in the business of an investigations company.~~

#### § 1702.115. Additional Qualifications for Security Services Contractor License

(a) An applicant for a license to engage in the business of a security services contractor or the applicant's manager must have, before the date of the application, two consecutive years' experience in each security services field for which the person applies as an employee, manager, or owner of a security services contractor or satisfy other requirements set by the commission.

(b) The applicant's experience must have been obtained legally and must be:

(1) reviewed by the commission or the director; and

(2) determined to be adequate to qualify the applicant to engage in the business of a security services contractor.

#### ~~§ 1702.116. Qualifications for Guard Dog Company License; Inspections~~

~~(a) An applicant for a license to engage in the business of a guard dog company must:~~

~~(1) meet the requirements of Sections 1702.113 and 1702.115; and~~

~~(2) present evidence satisfactory to the commission that the applicant will comply with the rules adopted under this section.~~

~~(b) After consulting the Texas Department of Health, the commission shall adopt rules to ensure that the areas in which a guard dog company houses, exercises, or trains its animals are securely enclosed by a six foot chain link fence or made equally secure.~~

~~(c) The commission shall conduct regular inspections to ensure compliance with the rules adopted under this section.~~

#### § 1702.117. Examination

(a) The commission shall require an applicant or the applicant's manager to demonstrate qualifications in the person's license classification, including knowledge of applicable state laws and commission rules, by taking an examination to be determined by the commission.

(b) Payment of the application fee entitles the applicant or the applicant's manager to take one examination without additional charge. A person who fails the examination must pay a reexamination fee to take a subsequent examination.

(c) The commission shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the license classification for which application was made.

(d) The commission shall develop and provide to a person who applies to take the examination under Subsection (a) material containing all applicable state laws and commission rules.

#### § 1702.118. Examination Results

(a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the commission shall notify the person of the examination results.

(b) If an examination is graded or reviewed by a testing service:

(1) the commission shall notify the person of the examination results not later than the 14th day after the date the commission receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify the person of the reason for the delay before the 90th day.

(c) The commission may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a licensing examination administered under this chapter, the commission shall furnish the person with an analysis of the person's performance on the examination.

#### § 1702.1183. Reciprocal License for Certain Foreign Applicants

- (a) The commission may waive any prerequisite to obtaining a license for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement.
- (b) The commission may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

#### § 1702.1186. Provisional License

(a) The commission may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks an equivalent license in this state and who:

- (1) has been licensed in good standing as an investigations company or security services contractor for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;
- (2) has passed a national or other examination recognized by the commission relating to the practice of private investigations or security services contracting; and
- (3) is sponsored by a person licensed by the commission under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) A provisional license is valid until the date the commission approves or denies the provisional license holder's application for a license. The commission shall issue a license under this chapter to the provisional license holder if:

- (1) the provisional license holder is eligible to be licensed under Section 1702.1183; or
- (2) the provisional license holder:

- (A) passes the part of the examination under Section 1702.117(a) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of an investigations company or security services contractor in this state;

- (B) is verified by the commission as meeting the academic and experience requirements for a license under this chapter; and

- (C) satisfies any other licensing requirements under this chapter.

(c) The commission must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The commission may extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.

(d) The commission may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

#### § 1702.119. Manager Required

(a) A license holder's business shall be operated under the direction and control of one manager. A license holder may not apply to designate more than one individual to serve as manager of the license holder's business.

(b) An individual may not act as a manager until the individual has:

- (1) demonstrated the individual's qualifications by passing the written examination required by Section 1702.117(a); and
- (2) made a satisfactory showing to the commission that the individual:

- (A) satisfies the requirements of Section 1702.113 and either Section 1702.114 or Section 1702.115, as appropriate;

and

- (B) has not engaged in conduct regarding a violation or conviction that is grounds for disciplinary action under Section 1702.361(b) or 1702.3615(a).

(c) If a manager lacks the experience to qualify to manage each category of service included in a license or application, the license holder must designate a supervisor qualified under Subsection (b) who is responsible for each service for which the manager is not qualified.

#### § 1702.120. False Application of Manager

(a) An individual may not:

- (1) serve as manager of an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company; and
- (2) fail to maintain that supervisory position on a daily basis for that company.

(b) An individual may not apply to the commission to serve as manager of an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company without the intent to maintain that supervisory position on a daily basis for that company.

#### § 1702.121. Termination of Manager

A license holder shall notify the commission in writing not later than the 14th day after the date a manager ceases to be manager of the license holder's business. The license remains in effect for a reasonable period after notice is given as provided by commission rule pending the commission's determination of the qualification of another manager under this subchapter.

#### § 1702.122. Temporary Continuation of License Holder's Business

Under the terms provided by commission rule, a license holder's business may continue for a temporary period if the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the license holder.

#### § 1702.123. Insurance; Bond

(a) A license holder shall maintain on file with the commission at all times the surety bond and certificate of insurance required by this chapter.

(b) The commission shall immediately suspend the license of a license holder who violates Subsection (a).

(c) The commission may rescind the license suspension if the license holder provides proof to the commission that the bond or the insurance coverage is still in effect. The license holder must provide the proof in a form satisfactory to the commission not later than the 10th day after the date the license is suspended.

(d) After suspension of the license, the commission may not reinstate the license until an application, in the form prescribed by the commission, is filed accompanied by a proper bond, insurance certificate, or both. The commission may deny the application notwithstanding the applicant's compliance with this section:

- (1) for a reason that would justify suspending, revoking, or denying a license; or
- (2) if, during the suspension, the applicant performs a practice for which a license is required.

#### § 1702.124. Insurance Requirement

(a) The commission may not issue a license unless the applicant files with the commission:

(1) evidence of a general liability insurance policy on a certificate of insurance form prescribed by the commission and countersigned by an insurance agent licensed in this state; or

(2) a certificate of insurance for surplus lines coverage obtained under Article 1.14-2, Insurance Code, through a licensed Texas surplus lines agent resident in this state.

(b) The general liability insurance policy must be conditioned to pay on behalf of the license holder damages that the license holder becomes legally obligated to pay because of bodily injury, property damage, or personal injury, caused by an event involving the principal, or an officer, agent, or employee of the principal, in the conduct of any business licensed under this chapter.

(c) The insurance policy must contain minimum limits of:

- (1) \$100,000 for each occurrence for bodily injury and property damage;
- (2) \$50,000 for each occurrence for personal injury; and
- (3) a total aggregate amount of \$200,000 for all occurrences.

(d) A person who is licensed to install and service fire alarms under Article 5.43-2, Insurance Code, complies with the insurance requirements of this section by complying with the insurance requirement of that article if the insurance held by the applicant complies with the requirements of this section in amounts and types of coverage.

(e) An insurance certificate executed and filed with the commission under this chapter remains in effect until the insurer terminates future liability by providing to the commission at least 10 days' notice of the intent to terminate liability.

#### § 1702.125. Bond Requirement

A bond executed and filed with the commission under this chapter remains in effect until the surety terminates future liability by providing to the commission at least 30 days' notice of the intent to terminate liability.

#### § 1702.127. License Holder Employees; Records

(a) A license holder may be legally responsible for the conduct in the license holder's business of each employee of the license holder while the employee is performing assigned duties for the license holder.

(b) A license holder shall maintain a record containing information related to the license holder's employees as required by the commission.

(c) A license holder shall maintain for commission inspection at the license holder's principal place of business or branch office two recent color photographs, of a type required by the commission, of each applicant, registrant, commissioned security officer, and employee of the license holder.

#### § 1702.128. Posting of License Required

A license holder shall at all times post:

- (1) the person's license in a conspicuous place in the principal place of business of the license holder; and
- (2) each branch office license in a conspicuous place in each branch office of the license holder.

#### § 1702.129. Notice of Certain Changes; Branch Offices

(a) A license holder shall notify the commission not later than the 14th day after the date of:

- (1) a change of address for the license holder's principal place of business;
- (2) a change of a name under which the license holder does business; or
- (3) a change in the license holder's officers or partners.

(b) A license holder shall notify the commission in writing not later than the 14th day after the date a branch office:

- (1) is established;
- (2) is closed; or
- (3) changes address or location.

#### § 1702.130. Use of Certain Titles, Uniforms, Insignia, or Identifications Prohibited

(a) A license holder, or an officer, director, partner, manager, or employee of a license holder, may not:

- (1) use a title, an insignia, or an identification card, wear a uniform, or make a statement with the intent to give an impression that the person is connected with the federal government, a state government, or a political subdivision of a state government; or
- (2) use a title, an insignia, or an identification card or wear a uniform containing the designation "police."

(b) Subsection (a) does not prohibit a commissioned security officer employed by a political subdivision of this state from using a title, insignia, or identification card, wearing a uniform, or making a statement indicating the employment of that individual by the political subdivision.

#### § 1702.131. Advertising

An advertisement by a license holder soliciting or advertising business must contain the license holder's company name and address as stated in commission records.

#### § 1702.132. Reports to Employer or Client

(a) A written report submitted to a license holder's employer or client may only be submitted by the license holder or manager or a person authorized by a license holder or manager. The person submitting the report shall exercise diligence in determining whether the information in the report is correct.

(b) A license holder or an officer, director, partner, manager, or employee of a license holder may not knowingly make a false report to the employer or client for whom information is obtained.

#### § 1702.133. Confidentiality; Information Relating to Criminal Offense

(a) A license holder or an officer, director, partner, or manager of a license holder may not disclose to another information obtained by the person for an employer or client except:

- (1) at the direction of the employer or client; or
- (2) as required by state law or court order.

(b) A license holder or an officer, director, partner, or manager of a license holder shall disclose to a law enforcement officer or a district attorney, or that individual's representative, information the person obtains that relates to a criminal offense.

#### § 1702.134. License Holder Exemptions From Certain Local Regulations

(a) A license holder or an employee of a license holder is not required to obtain an authorization, permit, franchise, or license from, pay another fee or franchise tax to, or post a bond in a municipality, county, or other political subdivision of this state to engage in business or perform a service authorized under this chapter.

(b) A municipality, county, or other political subdivision of this state may not require a payment for the use of municipal, county, or other public facilities in connection with a business or service provided by a license holder, except that a municipality may impose and collect:

- (1) a reasonable charge for the use of a central alarm installation located in a police office that is owned, operated, or monitored by the municipality; and
- (2) reasonable inspection and reinspection fees in connection with a device that causes at least five false alarms in a 12-month period.
- (c) A municipality may require, until the device is repaired to the satisfaction of the appropriate municipal official, discontinuation of service of an alarm signal device that, because of mechanical malfunction or faulty equipment, causes at least five false alarms in a 12-month period.
- (d) For the purposes of Subsection (c), a false alarm caused by human error or an act of God is not considered a mechanical malfunction or faulty equipment.

#### SUBCHAPTER G. SECURITY OFFICER COMMISSION REQUIREMENTS

##### § 1702.161. Security Officer Commission Required

- (a) An individual may not accept employment as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.
- (b) An individual employed as a security officer may not knowingly carry a firearm during the course of performing duties as a security officer unless the commission has issued a security officer commission to the individual.
- (c) A person may not hire or employ an individual as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.

##### § 1702.162. Employer's Application for Security Officer Commission

The employer of a security officer who applies for a security officer commission for the officer must submit an application to the commission on a form provided by the commission.

##### § 1702.163. Qualifications for Security Officer Commission

- (a) The commission may not issue a security officer commission to an applicant employed by a license holder unless the applicant submits evidence satisfactory to the commission that the applicant has:
  - (1) completed the basic training course at a school or under an instructor approved by the commission;
  - (2) met each qualification established by this chapter and commission rule;
  - (3) achieved the score required by the commission on the examination under Section 1702.1685; and
  - (4) demonstrated to the satisfaction of the firearm training instructor that the applicant has complied with commission standards for minimum marksmanship competency with a shotgun.
- (b) The commission may not issue a security officer commission to an individual who:
  - (1) is younger than 18 years of age;
  - (2) is a convicted felon; or
  - (3) has committed an act that, if committed by a license holder, would be grounds for suspension or revocation of a license.

##### § 1702.165. Issuance of Security Officer Commission; Pocket Card

- (a) The commission, with the concurrence of the Texas Department of Public Safety:
  - (1) may issue a security officer commission to an individual employed as a uniformed security officer; and
  - (2) shall issue a security officer commission to a qualified employee of an armored car company that is a carrier conducting the armored car business under a federal or state permit or certificate.
- (b) A security officer commission issued under this section must be in the form of a pocket card designed by the commission that identifies the security officer.

##### § 1702.166. Geographical Scope of Security Officer Commission

- (a) Except as provided by Subsections (b) and (c), the geographical scope of a security officer commission is restricted to one named county and each county contiguous to the named county.
- (b) The commission, with the concurrence of the Texas Department of Public Safety, may issue a security officer commission that is broader in geographical scope than that specified in Subsection (a) if the broader scope is shown to be in the public interest and necessary to the performance of the security officer's duties.
- (c) A security officer commission issued to an employee of an armored car company must be broad enough in its geographical scope to cover each county in which the armored car company has a permit or certificate to conduct its business.

##### § 1702.167. Termination of Employment as Commissioned Security Officer; Transfer of Commission

The holder of a security officer commission who terminates employment with one employer may transfer the individual's commission to a new employer if, not later than the 14th day after the date the individual begins the new employment, the new employer notifies the commission of the transfer of employment on a form prescribed by the commission, accompanied by payment of the employee information update fee.

#### § 1702.1675. Training Programs

- (a) The commission shall establish a basic training course for commissioned security officers. The course must include, at a minimum:
- (1) general security officer training issues;
  - (2) classroom instruction on handgun proficiency; and
  - (3) range instruction on handgun proficiency.
- (b) The course must be offered and taught by schools and instructors approved by the commission. To receive commission approval, a school or an instructor must submit an application to the commission on a form provided by the commission.
- (c) The basic training course approved by the commission must consist of a minimum of 30 hours.
- (d) The general security officer training portion of the course must include instruction on:
- (1) commission rules and applicable state laws;
  - (2) field note taking and report writing; and
  - (3) any other topics of security officer training curriculum the commission considers necessary.
- (e) The commission shall develop a commissioned security officer training manual that contains applicable state laws and commission rules to be used in the instruction and training of commissioned security officers.
- (f) The commission shall adopt rules necessary to administer the provisions of this section concerning the training requirements of this chapter.
- (g) The handgun proficiency course must include at least 10 hours and not more than 15 hours of instruction on:
- (1) the laws that relate to weapons and to the use of deadly force;
  - (2) handgun use, proficiency, and safety;
  - (3) nonviolent dispute resolution; and
  - (4) proper storage practices for handguns, with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.
- (h) The range instruction on handgun proficiency must include an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun. The applicant must demonstrate, at a minimum, the degree of proficiency that is required to effectively operate a 9 millimeter or .38 caliber handgun.
- (i) The commission by rule shall establish minimum standards for handgun proficiency that are at least as stringent as the standards for handgun proficiency developed by the public safety director under Section 411.188, Government Code.

#### § 1702.168. Firearm Requirements

- (a) In addition to the requirements of Section 1702.163(a), the commission by rule shall establish other qualifications for individuals who are employed in positions requiring the carrying of firearms. The qualifications may include:
- (1) physical and mental standards;
  - (2) standards of good moral character; and
  - (3) other requirements that relate to the competency and reliability of individuals to carry firearms.
- (b) The commission shall prescribe appropriate forms and adopt rules by which evidence is presented that the requirements are fulfilled.

#### § 1702.1685. Handgun Proficiency Examination

- (a) The proficiency examination required to obtain or renew a security officer commission must include:
- (1) a written section on the subjects listed in Section 1702.1675(g); and
  - (2) a physical demonstration of handgun proficiency that meets the minimum standards established under Section 1702.1675(h) or (i).
- (b) Only a commission approved instructor may administer the handgun proficiency examination.
- (c) An applicant for a security officer commission must demonstrate the required proficiency within the 90 day period before the date the security officer commission is issued.
- (d) The school shall maintain the records of the required proficiency and make the records available for inspection by the commission.

#### § 1702.169. Firearm Restrictions

A commissioned security officer may not carry a firearm unless:

- (1) the security officer is:

- (A) engaged in the performance of duties as a security officer; or
- (B) traveling directly to or from the place of assignment;
- (2) the security officer wears a distinctive uniform indicating that the individual is a security officer; and
- (3) the firearm is in plain view, except as provided by Section 1702.206.

#### § 1702.170. Nonapplicability of Firearm Restrictions

Sections 1702.161, 1702.169, and 1702.206 do not apply to the holder of a temporary security officer commission who:

- (1) is in uniform;
- (2) possesses only one firearm; and
- (3) is performing the individual's duties.

#### § 1702.171. Security Officer Commission Records

The commission shall adopt rules for the maintenance of records relating to an individual to whom the commission has issued a security officer commission.

### SUBCHAPTER H. EMPLOYMENT OF COMMISSIONED SECURITY OFFICER BY CERTAIN PERSONS; LETTER OF AUTHORITY REQUIREMENTS

#### § 1702.181. Letter of Authority Required

The security department of a private business or a political subdivision may not employ a commissioned security officer unless the security department holds a letter of authority.

#### § 1702.182. Security Department of Private Business

A security department acts as the security department of a private business if it:

- (1) has as its general purpose the protection and security of its own property and grounds; and
- (2) does not offer or provide security services to another person.

#### § 1702.183. Application for Letter of Authority

A security department of a private business or of a political subdivision that applies for a security officer commission for an individual employed by the department must submit an application to the commission for a letter of authority on a form provided by the commission.

### SUBCHAPTER I. PERSONAL PROTECTION OFFICER AUTHORIZATION REQUIREMENTS

#### § 1702.201. Personal Protection Officer Authorization Required

A commissioned security officer may not act as a personal protection officer unless the officer holds a personal protection officer authorization.

#### § 1702.202. Personal Protection Officer

An individual acts as a personal protection officer if the individual:

- (1) has been issued a security officer commission to carry a concealed firearm; and
- (2) provides to an individual personal protection from bodily harm.

#### § 1702.203. Application for Personal Protection Officer Authorization

An applicant for a personal protection officer authorization must submit a written application on a form prescribed by the commission.

#### § 1702.204. Personal Protection Officer Authorization: Qualifications

(a) An applicant for a personal protection officer authorization must be at least 21 years of age and must provide:

- (1) a certificate of completion of the basic security officer training course;
- (2) proof that the applicant:
  - (A) has been issued a security officer commission;
  - (B) is employed at the time of application by an investigations company or guard company licensed by the commission; and
  - (C) has completed the required training in nonlethal self defense or defense of a third person; and
- (3) proof of completion and the results of the Minnesota Multiphasic Personality Inventory psychological testing.

(b) The commission by rule shall require an applicant for a personal protection officer authorization to complete the Minnesota Multiphasic Personality Inventory test. The commission may use the results of the test to evaluate the applicant's psychological fitness.



~~§ 1702.205. Personal Protection Officer Training~~

~~(a) The commission shall establish a 15-hour course for a personal protection officer consisting of training in nonlethal self defense or defense of a third person.~~

~~(b) The training required by this section is in addition to the basic training course for security officers.~~

~~§ 1702.206. Concealed Firearms~~

~~An individual acting as a personal protection officer may not carry a concealed firearm unless the officer:~~

~~(1) is engaged in the exclusive performance of the officer's duties as a personal protection officer for the employer under whom the officer's personal protection officer authorization is issued; and~~

~~(2) carries the officer's security officer commission and personal protection officer authorization on the officer's person while performing the officer's duties and presents the commission and authorization on request.~~

SUBCHAPTER J. REGISTRATION REQUIREMENTS; REGISTRANT DUTIES

§ 1702.221. Registration Required

An individual must register with the commission as provided by commission rule if the individual:

(1) is employed as an alarm systems installer, alarm systems monitor, dog trainer, manager or branch office manager, noncommissioned security officer, private investigator, private security consultant, or security salesperson; or

(2) is an owner, officer, partner, or shareholder of a license holder.

~~§ 1702.222. Security Officer~~

~~An individual acts as a security officer for purposes of this chapter if the individual is:~~

~~(1) employed by a security services contractor or the security department of a private business; and~~

~~(2) employed to perform the duties of an alarm systems response runner who responds to the first signal of entry, a security guard, security watchman, security patrolman, armored car guard, or courier guard.~~

§ 1702.223. Alarm Systems Installer

An individual acts as an alarm systems installer for purposes of this chapter if the individual installs, maintains, or repairs an alarm system.

§ 1702.224. Alarm Systems Monitor

(a) An individual acts as an alarm systems monitor for purposes of this chapter if the individual monitors an alarm system or detection device.

(b) This section does not apply to an individual employed exclusively and regularly by an employer, other than a license holder, in connection with the affairs of that employer and with whom the individual has an employee-employer relationship.

~~§ 1702.225. Dog Trainer~~

~~An individual acts as a dog trainer for purposes of this chapter if the individual, as the employee of a licensed guard dog company or investigations company, trains a dog used to protect persons or property or to conduct investigations.~~

~~§ 1702.226. Private Security Consultant~~

~~An individual acts as a private security consultant for purposes of this chapter if the individual:~~

~~(1) consults, advises, trains, or specifies or recommends products, services, methods, or procedures in the security loss prevention industry;~~

~~(2) provides a service described by Subdivision (1) on an independent basis and without being affiliated with a particular service or product; and~~

~~(3) meets the experience requirements established by the commission.~~

§ 1702.227. Security Salesperson

An individual acts as a security salesperson for purposes of this chapter if the individual is employed by a security services contractor to sell services offered by the contractor.

§ 1702.228. Employee of License Holder; Registration Permitted

An employee of a license holder who is employed in a capacity that is not subject to mandatory registration under this subchapter may register with the commission.

§ 1702.229. Qualifications for Registration

- (a) An individual must be at least 18 years of age to be registered.
- (b) The commission by rule may adopt additional qualifications for an individual to be registered under this subchapter.

§ 1702.230. Application for Registration

- (a) An application for registration must be verified and include:
  - (1) the applicant's full name, residence address, residence telephone number, date and place of birth, and social security number;
  - (2) a statement that:
    - (A) lists each name used by the applicant, other than the name by which the applicant is known at the time of application, and an explanation stating each place where each name was used, the date of each use, and a full explanation of the reasons the name was used; or
    - (B) states that the applicant has never used a name other than the name by which the applicant is known at the time of application;
  - (3) the name and address of the applicant's employer and, if applicable, the applicant's consulting firm;
  - (4) the date the employment commenced;
  - (5) a letter from the license holder requesting that the applicant be registered;
  - (6) the title of the position occupied by the applicant and a description of the applicant's duties; and
  - (7) any other information, evidence, statement, or document required by the commission.
- (b) The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1).

§ 1702.2305. Provisional Registration

- (a) The commission may issue a provisional registration to an applicant currently registered in another jurisdiction who seeks an equivalent registration in this state and who:
  - (1) has been registered in good standing in the field in which the registration is sought for at least two years in another jurisdiction, including a foreign country, that has registration requirements substantially equivalent to the requirements of this chapter;
  - (2) has passed a national or other examination recognized by the commission relating to practice in the field in which the registration is sought; and
  - (3) is employed by a person licensed by the commission under this chapter with whom the provisional registration holder will practice during the time the person holds a provisional registration.
- (b) A provisional registration is valid until the date the commission approves or denies the provisional registration holder's application for a registration. The commission shall issue a registration under this chapter to the provisional registration holder if the provisional registration holder is eligible to be registered under this chapter.
- (c) The commission must approve or deny a provisional registration holder's application for a registration not later than the 180th day after the date the provisional registration is issued. The commission may extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.
- (d) The commission may establish a fee for provisional registration in an amount reasonable and necessary to cover the cost of issuing the registration.

§ 1702.232. Pocket Cards

- (a) The commission shall issue a pocket card for each registrant under this chapter. A pocket card for an owner, officer, partner, or shareholder of a license holder shall be issued to the license holder.
- (b) The commission shall determine the size, design, and content of the pocket card.
- (c) The pocket card must:
  - (1) state the name of the registrant;
  - (2) contain a color photograph and the signature of the registrant; and
  - (3) state the date the card was issued and the card's expiration date.

§ 1702.233. Duration Of Pocket Cards

A pocket card issued for a registrant is valid for two years and expires on the date the registration expires under Section 1702.301(d), (e), or (f).

§ 1702.234. Registration Transfer.

A registrant may transfer the registrant's registration from one employer to another employer if, not later than the 14th day after the date the registrant begins the new employment, the new employer notifies the commission of the transfer of employment on a form prescribed by the commission accompanied by payment of the employee information update fee.

#### ~~§ 1702.235. Preemployment Check for Noncommissioned Security Officers~~

~~A person may not hire a noncommissioned security officer unless the person conducts a preemployment check as required by commission rule.~~

#### § 1702.239. Training Requirements for Alarm Systems Installer and Security Salesperson; Examination

(a) The commission may require that an individual employed as an alarm systems installer or security salesperson hold a certification by a commission-approved training program to renew an initial registration. The commission may approve only nationally recognized training programs that consist of at least 20 hours of classroom study in the areas of work allowed by the registration. To be approved, a training program must offer at least two certification programs each year, sufficient to complete the requirements of this subsection, within 100 miles of each county in the state that has a population of more than 500,000.

(b) The commission may require an individual who has completed a training program under Subsection (a) to pass an examination given by the commission or by a person approved by the commission. The commission may approve examinations in conjunction with training programs approved under Subsection (a). The individual's performance on the examination must demonstrate the individual's qualifications to perform the duties allowed by the individual's registration.

(c) An individual who holds a registration on September 30, 1993, is not required to comply with requirements adopted under Subsections (a) and (b) during the time the individual maintains the registration with the individual's current license holder.

(d) If the commission requires certification or examination under this section, the commission shall implement rules to require that to renew a registration, an individual who is employed as an alarm systems installer or a security salesperson and who has already once renewed the registration must obtain continuing education credits related to the line of work for which the individual is licensed. If the commission requires the continuing education, the director must approve classes offered by nationally recognized organizations, and participants in the classes must qualify according to commission rules.

#### § 1702.240. Registration Exemptions for Undercover Agent

(a) For the purposes of this section, "undercover agent" means an individual hired by a person to perform a job in or for that person, and while performing that job, to act as an undercover agent, an employee, or an independent contractor of a license holder, but supervised by a license holder.

~~(b) An employee of a license holder who is employed exclusively as an undercover agent is not required to register with the commission.~~

### SUBCHAPTER K. SELLER'S CERTIFICATE

#### § 1702.261. Applicability of Chapter

Except as provided by this subchapter, this chapter does not apply to a person who meets the requirements under Section 1702.262.

#### § 1702.262. Sellers of Certain Devices

~~A person may sell a detection device or other device for preventing or detecting burglary if:~~

~~(1) the person does not install, repair, or maintain detection devices;~~

~~(2) the person holds a seller's certificate;~~

~~(3) the person, or the manufacturer or distributor of the device that the person sells, files with the commission a certificate evidencing insurance for liability for bodily injury or property damage arising from faulty or defective products in an amount of not less than \$1 million combined single limit, provided that the policy of insurance need not relate exclusively to burglary devices;~~

~~(4) the person, or the manufacturer or distributor of the device that the person sells, files with the commission a surety bond executed by a surety company authorized to do business in this state in the sum of \$10,000 in favor of the state; and~~

~~(5) the person is not employed by a security services contractor.~~

#### § 1702.263. Application for Seller's Certificate

~~(a) To obtain a seller's certificate, a person must:~~

~~(1) submit to the commission an application that includes the person's full name, residence telephone number, date and place of birth, and social security number and two sets of classifiable fingerprints; and~~

~~(2) pay to the commission a seller's certificate fee established by the commission in an amount not to exceed \$25.~~

- (b) The commission shall approve an application for a seller's certificate and issue the certificate to the applicant unless:
- (1) the background check of the applicant discloses a felony conviction for which a full pardon has not been granted; or
  - (2) any information provided in the application is false.

#### ~~§ 1702.264. Expiration of Seller's Certificate~~

~~A seller's certificate expires on the second anniversary of the date the certificate is issued.~~

#### ~~§ 1702.265. Consumer Protection~~

~~A customer purchasing a device from a person under this subchapter for use in the customer's home who does not receive delivery of the device in accordance with the contract or agreement may bring an action against the surety bond required by Section 1702.262 to recover the down payment or purchase price actually paid.~~

#### ~~§ 1702.266. Certain Prohibited Practices~~

~~(a) A seller's certificate does not authorize the person who holds the certificate to install, service, monitor, or respond to a detection device used to prevent or detect burglary or other losses resulting from similar acts.~~

~~(b) A violation of this section is punishable under Section 1702.388.~~

#### ~~§ 1702.267. Suspension or Revocation of Seller's Certificate~~

~~On conviction under Section 1702.388 for a violation of this subchapter, the commission may revoke or suspend a seller's certificate after a hearing conducted under Subchapter O.~~

### SUBCHAPTER L. GENERAL PROVISIONS APPLICABLE TO REGULATED PERSONS

#### ~~§ 1702.281. Notice to Law Enforcement (Repealed by House Bill 1769, 78<sup>th</sup> Regular Session)~~

~~The commission shall provide to the sheriff of the county and the chief of police of the principal municipality of the county in which a person regulated under this chapter resides notice of the issuance, revocation, reinstatement, or expiration of a license, registration, or commission issued by the commission.~~

#### ~~§ 1702.282. Criminal History Check~~

~~(a) The commission shall conduct a criminal history check, including a check of any criminal history record information maintained by the Federal Bureau of Investigation, in the manner provided by Subchapter F, Chapter 411, Government Code, on each applicant for a license, registration, security officer commission, letter of approval, permit, or certification. An applicant is not eligible for a license, registration, commission, letter of approval, permit, or certification if the check reveals that the applicant has committed an act that constitutes grounds for the denial of the license, registration, commission, letter of approval, permit, or certification. Each applicant shall include in the application two complete sets of fingerprints on forms prescribed by the commission accompanied by the fee set by the commission.~~

~~(b) Before beginning employment as a commissioned security officer, the applicant must be approved by the commission based on the results of the check under Subsection (a). To continue employment in a capacity regulated under this chapter other than as a commissioned security officer, the applicant must be approved by the commission based on the results of the check under Subsection (a) not later than the 120th day after the date the applicant begins employment in that capacity.~~

~~(c) A license, registration, security officer commission, letter of approval, permit, or certification issued by the commission is conditional on the commission's receipt of criminal history record information.~~

#### ~~§ 1702.283. Cruelty to Animals~~

~~A person who has been convicted of cruelty to animals under Section 42.09, Penal Code:~~

- ~~(1) is ineligible for a license as a guard dog company or for registration as a dog trainer; and~~
- ~~(2) may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.~~

#### ~~§ 1702.284. Alarm Systems Records Confidential~~

~~Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the commission or as otherwise required by state law or court order.~~

#### § 1702.285. False Representation

A person may not represent falsely that the person:

- (1) is employed by a license holder; or
- (2) is licensed, registered, or commissioned under this chapter.

### SUBCHAPTER M. EXPIRATION; RENEWAL

#### § 1702.301. Expiration

- (a) A license is valid for one year from the date of issuance. A license expires at midnight on the last day of the 11th month after the month in which it is issued.
- (b) A security officer commission expires on the second anniversary of the date the commission is issued.
- (c) A personal protection officer authorization expires on the expiration date of the security officer commission under which the individual's authorization is issued.
- (d) Registration as a private investigator, manager, branch office manager, alarm systems installer, security consultant, security salesperson, alarm systems monitor, or dog trainer expires on the second anniversary of the date of registration.
- (e) Registration as an owner, officer, partner, or shareholder of a license holder expires on the second anniversary of the date of registration.
- (f) Registration as a noncommissioned security officer expires on the second anniversary of the date of registration.
- (g) A letter of authority, or a school approval or school instructor approval letter issued by the commission, expires on the first anniversary of the date of issuance.
- (h) A license or registration issued under this chapter other than one specified in this section expires on the date specified by this chapter or by commission rule.

#### § 1702.302. License Renewal

- (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the commission before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.
- (b) A person whose license has been expired for 90 days or less may renew the license by paying to the commission a renewal fee that is equal to 1-1/2 times the normally required renewal fee.
- (c) A person whose license has been expired for longer than 90 days but less than one year may renew the license by paying to the commission a renewal fee that is equal to two times the normally required renewal fee.
- (d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.
- (e) Not later than the 30th day before the date a person's license is scheduled to expire, the commission shall send written notice of the impending expiration to the person at the person's last known address according to the commission's records.

#### § 1702.303. Renewal of Expired License by Out-Of-State Practitioner

A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date the person applies for renewal may obtain a new license without reexamination. The person must pay to the commission a fee that is equal to two times the normally required renewal fee for the license.

#### § 1702.304. Staggered Renewal; Proration of License Fee

The commission by rule may adopt a system under which licenses expire on various dates during the year for the year in which the expiration date of a license is changed, the commission shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

#### § 1702.305. Effect of License Renewal on Disciplinary Action

Renewal of a license does not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

#### § 1702.306. Effect of Suspension on License Renewal Requirements

A suspended license expires on the license's expiration date and may be renewed as provided by this chapter, but the renewal does not entitle the license holder, while the license remains suspended and until the license is reinstated, to engage in the licensed activity or in conduct in violation of the order or judgment by which the license was suspended.

#### § 1702.307. Registration Renewal

(a) An individual who is otherwise eligible to renew a registration may renew an unexpired registration by paying the required renewal fee to the commission before the expiration date of the registration. An individual whose registration has expired may not engage in activities that require a registration until the registration has been renewed.

(b) An individual whose registration has been expired for 90 days or less may renew the registration by paying to the commission a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) An individual whose registration has been expired for more than 90 days but less than one year may renew the registration by paying to the commission a renewal fee that is equal to two times the normally required renewal fee.

(d) An individual whose registration has been expired for one year or more may not renew the registration. The individual may obtain a new registration by complying with the requirements and procedures, including any examination required by the commission, for obtaining an original registration.

(e) An individual who was registered in this state, moved to another state, and is currently registered and has been in practice in the other state for the two years preceding the date of application may obtain a new registration without reexamination. The individual must pay to the commission a fee that is equal to two times the normally required renewal fee for the registration.

(f) Not later than the 30th day before the expiration date of an individual's registration, the commission shall send written notice of the impending expiration to the individual at the individual's last known address according to commission records.

#### § 1702.308. Continuing Education

(a) This section does not apply to a noncommissioned security officer.

(b) The commission shall recognize, prepare, or administer continuing education programs for license holders, commissioned security officers, and registrants. The commission shall set the minimum number of hours that must be completed and the types of programs that may be offered.

(c) A license holder, commissioned security officer, or registrant must participate in the programs to the extent required by the commission to keep the person's license, commission, or registration. A license holder, commissioned security officer, or registrant shall submit evidence of compliance with the commission's continuing education requirements in a manner prescribed by the commission.

#### ~~§ 1702.309. Security Officer Commission Renewal~~

~~(a) The commission by rule shall develop a continuing education course in handgun proficiency required for renewal of a security officer commission. Only a commission-approved instructor may administer the continuing education course. The course must include:~~

~~(1) at least four hours of instruction on one or more of the subjects listed in Section 1702.1675(g); and~~

~~(2) other information that the director determines is appropriate.~~

~~(b) A commissioned security officer must demonstrate the proficiency required under Section 1702.1685 within the 90-day period before the date the commission is renewed.~~

#### SUBCHAPTER N. EXCEPTIONS

##### § 1702.321. Government Employees

(a) Except as provided by this section, this chapter does not apply to an officer or employee of the United States, this state, or a political subdivision of this state while the employee or officer is performing official duties.

(b) The provisions of this chapter relating to security officer commissions apply to a person employed by a political subdivision whose duties include serving as a security guard, security watchman, or security patrolman on property owned or operated by the political subdivision if the governing body of the political subdivision files a written request with the commission for the commission to issue a commission to the political subdivision's employees with those duties.

(c) The commission may not charge a fee for issuing a commission to an officer under Subsection (b). The commission shall issue to the officer a pocket card designating the political subdivision that employs the officer.

(d) The commission expires at the time the officer's employment as a security officer by the political subdivision is terminated.

(e) The commission may approve a security officer training program conducted by the political subdivision in accordance with Sections 1702.1675 and 1702.168.

##### § 1702.322. Law Enforcement Personnel

This chapter does not apply to:

(1) a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer:

(A) is employed in an employee-employer relationship or employed on an individual contractual basis;

(B) is not in the employ of another peace officer;

(C) is not a reserve peace officer; and

(D) works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

#### ~~§ 1702.323. Security Department of Private Business~~

~~(a) Except as provided by Subsections (b) and (d), this chapter does not apply to an individual employed in an employee-employer relationship exclusively and regularly by one employer in connection with the affairs of the employer.~~

~~(b) An individual described by Subsection (a) who carries a firearm in the course of employment must obtain a private security officer commission under this chapter.~~

~~(c) Although the security department of a private business that hires or employs an individual as a private security officer to possess a firearm in the course and scope of the individual's duties is required to apply for a security officer commission for the individual under this chapter, the security department of a private business is not required to apply to the commission for any license under this chapter.~~

~~(d) This chapter applies to an individual described by Subsection (a) who:~~

~~(1) works at a location that is open to the public; and~~

~~(2) in the course of employment:~~

~~(A) regularly comes into contact with the public; and~~

~~(B) wears a uniform with any type of badge commonly associated with security personnel or law enforcement or a patch or apparel with "security" or the name of the employer on the patch or apparel.~~

#### § 1702.324. Certain Occupations

(a) For the purposes of this section, "landman" means an individual who, in the course and scope of the individual's business:

(1) acquires or manages petroleum or mineral interests; or

(2) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum or mineral interests.

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor who sells equipment to a license holder that is used in the operations for which the person is required to be licensed;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a locksmith who:

(A) does not install or service detection devices;

(B) does not conduct investigations; and

(C) is not a security services contractor;

(5) a person who:

(A) is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes; and

(B) does not perform any other service that requires a license under this chapter;

(6) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter;

and

(C) does not perform any other act that requires a license under this chapter;

(7) a licensed professional engineer practicing engineering or directly supervising engineering practice under The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), including forensic analysis, burglar alarm system engineering, and necessary data collection;

(8) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(9) a landman performing activities in the course and scope of the landman's business;

(10) an attorney while engaged in the practice of law;

(11) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition; or

(12) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person.

#### § 1702.325. Common Carriers

This chapter does not apply to:

(1) a common carrier by rail engaged in interstate commerce, regulated by state and federal authorities, and transporting commodities essential to the national defense and to the general welfare and safety of the community; or

(2) an officer, employee, or agent of a common carrier, as defined by Section 153 of the federal Communications Act of 1934 (47 U.S.C. Section 153), and its subsequent amendments, while protecting the carrier or a user of the carrier's long-distance services from a fraudulent, unlawful, or abusive use of those long-distance services.

#### § 1702.326. Medical Alert Services

(a) This chapter does not apply to an entity that:

(1) provides medical alert services for persons who are sick or disabled;

(2) does not provide any other service that requires a license under this chapter; and

(3) is:

(A) a hospital or a wholly owned subsidiary or an affiliate of a hospital licensed under Chapter 241, Health and Safety Code; or

(B) a charitable or a nonprofit entity that provides the services in the manner required by Subsection (b) and that is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code.

(b) A charitable or nonprofit entity that provides medical alert services must provide those services through a licensed person, licensed nurse, licensed physician assistant or by a hospital, subsidiary, or affiliate described by Subsection (a)(3)(A).

#### § 1702.327. Nonprofit and Civic Organizations

This chapter does not apply to:

(1) a nonprofit business or civic organization that:

(A) employs a peace officer who meets the qualifications of Section 1702.322(1) as a patrolman, guard, or watchman;

(B) provides the services of the peace officer only to:

(i) the organization's members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents;

(C) devotes the net receipts from all charges for the services exclusively to the cost of providing the services or to the costs of other services for the enhancement of the security or safety of:

(i) the organization's members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents; and

(D) does not perform any other service that requires a license under this chapter; or

(2) a charitable, nonprofit organization that maintains a system of records to aid in the location of missing children and that:

(A) is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) exclusively provides services related to locating missing children; and

(C) does not perform any other service that requires a license under this chapter.

#### § 1702.328. Security Systems Sales and Installation



This chapter does not apply to:

(1) a person who owns and installs a burglar detection or alarm device on the person's own property or, if the person does not charge for the device or the installation, installs the device for the protection of the person's personal property located on another person's property and does not, as a normal business practice, install the devices on the property of another;

(2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:

(A) the person is a party to a contract that provides that:

(i) the installation will be performed under the direct supervision of, and inspected and certified by, a person licensed to install and certify the alarm or detection device; and

(ii) the license holder assumes full responsibility for the installation of the alarm or detection device; and

(B) the person does not service or maintain burglar alarms or detection devices;

(3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; or

(4) a person who sells exclusively over the counter or by mail order burglar alarm signal devices, burglary alarms, television cameras, still cameras, or other electrical, mechanical, or electronic devices used for preventing or detecting burglary, theft, or other losses.

#### § 1702.329. Fire Alarm and Detection Sales and Installation

This chapter does not apply to:

(1) a person whose activities are regulated under Article 5.43-2, Insurance Code, except to the extent those activities are specifically regulated under this chapter; or

(2) a person who holds a license or other credential issued by a municipality to practice as an electrician and who installs fire or smoke detectors only in single family or multifamily residences.

#### § 1702.330. Security Personnel of Private Institution of Higher Education

This chapter does not apply to:

(1) a person who is employed full time by and is commissioned as a campus security personnel employee by a private institution of higher education under Section 51.212, Education Code; or

(2) a peace officer commissioned by an incorporated municipality who is hired under Section 51.212, Education Code, on a regular basis by a private institution of higher education while that peace officer is operating within the scope of the peace officer's employment with the institution of higher education.

### SUBCHAPTER O. PROHIBITED PRACTICES AND GROUNDS FOR DENIAL AND DISCIPLINARY ACTION

#### § 1702.361. Denial and Disciplinary Powers of Commission ; Grounds

(a) Except as provided by Section 1702.3615, the commission, for conduct described by Subsection (b), may:

(1) revoke, suspend, or refuse to renew a license, registration, or security officer commission;

(2) reprimand a license holder, registrant, or commissioned security officer; or

(3) place on probation a person whose license, registration, or security officer commission has been suspended.

(b) The commission shall take disciplinary action described by Subsection (a) on proof:

(1) that the applicant, license holder, registrant, or commissioned security officer has:

(A) violated this chapter or a commission rule adopted under this chapter;

(B) been convicted of a Class B misdemeanor or equivalent offense if the fifth anniversary of the date of the conviction has occurred;

(C) engaged in fraud, deceit, or misrepresentation; or

(D) made a material misstatement in an application for or renewal of a license, registration, or commission; or

(2) that the license holder of a registrant or commissioned security officer has submitted to the commission sufficient evidence that the registrant or commissioned security officer:

(A) engaged in fraud or deceit while employed by the license holder; or

(B) committed theft while performing work as a registrant or commissioned security officer.

(c) The commission may place on probation a person whose license is suspended. If a person's suspension of a license is probated, the commission may require the person:

(1) to report regularly to the commission on matters that are the basis of the suspension;

(2) to limit practice to the areas prescribed by the commission; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

#### § 1702.3615. Revocation or Refusal for Certain Offenses

(a) Except for an application approved by the commission under Subsection (b), the commission shall revoke or refuse to renew a registration, license, or security officer commission if the applicant, license holder, registrant, or commissioned security officer has been convicted of a:

- (1) Class A misdemeanor or equivalent offense or a greater offense; or
- (2) Class B misdemeanor or equivalent offense if the fifth anniversary of the date of conviction has not occurred.

(b) An applicant may appeal to the commission the denial of a license, registration, or security officer commission application if:

- (1) the sole basis of the denial is a conviction for a Class A misdemeanor or equivalent or a greater offense;
- (2) the 20th anniversary of the conviction has occurred; and
- (3) the applicant waives the applicant's right to a hearing before the State Office of Administrative Hearings.

(c) A proceeding under Subsection (b) is governed by Chapter 2001, Government Code. A hearing must be held at a regular meeting of the commission.

(d) Notwithstanding any other provision of this chapter, the commission may approve the application.

#### § 1702.362. Failure to File Required Notice

The commission may suspend or revoke a license if the license holder fails to notify the commission as required by Section 1702.121 that a manager has ceased to be the manager of the license holder.

#### § 1702.363. Application of Administrative Procedure Act

Except as provided by Sections 1702.3615(b) and 1702.364, a person regulated under this chapter against whom the commission has taken action is entitled to a hearing before the State Office of Administrative Hearings. A proceeding under this section is a contested case that is governed by Chapter 2001, Government Code.

#### § 1702.364. Summary Suspension

(a) On receiving written notice from the Texas Department of Public Safety or another law enforcement agency that an individual has been arrested for or charged with a Class B misdemeanor or equivalent offense or a greater offense, the commission may:

- (1) summarily deny the individual's application for a license, registration, or security officer commission; or
- (2) summarily suspend the individual's license, registration, or security officer commission.

(b) To initiate a proceeding to take action under Subsection (a), the commission must serve notice to the individual. The notice must:

- (1) inform the individual of the right to a preliminary hearing before the commission;
- (2) state the alleged violations that constitute grounds for summary suspension; and

(3) be personally served on the individual or sent to the individual by certified or registered mail, return receipt requested, to the individual's mailing address as it appears in the commission's records.

(c) The suspension is effective at the time notice is served. If notice is served in person, the individual shall immediately surrender to the commission the registration, commission, pocket card, or other identification issued by the commission. If the notice is served by mail, the individual shall immediately return to the commission the registration, commission, pocket card, or other identification issued by the commission.

(d) At a preliminary hearing, the individual must show cause why, pending final hearing on the suspension or denial:

- (1) the application should not remain denied; or
- (2) the registration or commission should not remain suspended.

(e) A final hearing may be scheduled at a time after the final disposition of the charges resulting in the summary suspension or summary denial.

(f) Chapter 2001, Government Code, does not apply to a proceeding before the commission under this section except for a final administrative hearing.

(g) The dismissal of a complaint, information, or indictment or an acquittal releases the individual from automatic grounds for a summary denial of an application or summary suspension of a registration or commission under this section.

#### § 1702.365. Abduction of Child

The commission shall revoke a person's license, registration, or security officer commission or deny a person's application for, or renewal of, a license, registration, or security officer commission on proof that the person or an agent of the person has, after the date of application for a license, registration, or security officer commission, abducted or attempted to abduct by force or the threat of force or by misrepresentation, stealth, or unlawful entry a child who at the time of the abduction or attempt is under the care and control of a person who:

- (1) has custody or physical possession of the child under a court order; or

(2) is exercising the care and control with the consent of a person who has custody or physical possession of the child under a court order.

#### § 1702.367. Complaint Investigation; Subpoena; Witness

(a) For an investigation conducted under this chapter, the commission may issue a subpoena to compel the attendance of a witness or the production of a pertinent record or document. The hearings officer may administer oaths and require testimony or evidence to be given under oath.

(b) A witness is not privileged to refuse to testify to a fact or to produce a record or document with respect to which the witness is properly examined by the hearings officer.

(c) A person required to testify or to produce a record or document on any matter properly under inquiry by the commission who refuses to testify or to produce the record or document on the ground that the testimony or the production of the record or document would incriminate or tend to incriminate the person is nonetheless required to testify or to produce the record or document. A person who is required to testify or to produce a record or document under this subsection is not subject to indictment or prosecution for a transaction, matter, or thing concerning which the person truthfully testifies or produces evidence.

(d) If a witness refuses to obey a subpoena or to give evidence relevant to proper inquiry by the commission, the commission may petition a district court of the county in which the hearing is held to compel the witness to obey the subpoena or to give the evidence. The court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible.

(e) An investigator employed by the commission may take statements under oath in an investigation of a matter covered by this chapter.

#### § 1702.368. Notification of Conviction for Certain Offenses

The Texas Department of Public Safety shall notify the commission and the police department of the municipality and the sheriff's department of the county in which a person licensed, registered, or commissioned under this chapter resides of the conviction of the person for a Class B misdemeanor or equivalent offense or a greater offense.

#### § 1702.369. No Reinstatement After Revocation

A revoked license may not be reinstated.

#### § 1702.370. Effect of Suspension; Monitoring of Existing Alarm Contracts

Subject to expiration of the license under Section 1702.306, a license holder may continue to monitor under an existing alarm contract or contract to monitor under an existing alarm contract for 30 days after the date of suspension of the person's license.

#### § 1702.3705. Prohibition Against Certain Political Subdivisions Acting as Alarm Systems Company

(a) Except as provided by Subsection (b), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(b) A political subdivision may:

(1) offer service, installation, or monitoring for property owned by the political subdivision or another political subdivision;

(2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity;

(3) offer monitoring in connection with a criminal investigation; or

(4) offer monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(c) The limitations of Subsection (a) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

#### § 1702.371. Conviction of Certain Crimes

In this subchapter, a person is considered to be convicted of an offense that is a Class B misdemeanor or greater offense, or an equivalent offense, if a court enters a judgment against the person for committing a Class B misdemeanor or greater offense, or an equivalent offense, under the laws of this state, another state, or the United States, including a conviction:

(1) in which a person is placed on and subsequently discharged from community supervision; and

(2) for which a person is pardoned, unless a full pardon has been granted.

### SUBCHAPTER P. PENALTIES AND ENFORCEMENT PROVISIONS

#### § 1702.381. Civil Penalty

- (a) A person who is not licensed under this chapter, who does not have a license application pending, and who violates this chapter may be assessed a civil penalty to be paid to the state not to exceed \$1,000 for each violation.
- (b) The commission must give a person 30 days' notice of the requirement to obtain a license before the civil penalty may be assessed.

#### § 1702.382. Injunction

- (a) The commission may institute an action in the name of the commission against a person to enjoin a violation by the person of this chapter or a commission rule.
- (b) The commission is not required to allege or prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation to sustain an action under this section.

#### § 1702.383. Action for Civil Penalty or Injunction

If a person has violated a provision of this chapter for which a penalty is imposed under Section 1702.381, the commission may institute a civil suit in a Travis County district court for injunctive relief under Section 1702.382 or for assessment and recovery of the civil penalty.

#### § 1702.384. Falsification of Certain Documents; Offense

- (a) A person commits an offense if the person knowingly falsifies fingerprints or photographs submitted under Section 1702.110.
- (b) An offense under this section is a felony of the third degree.

#### § 1702.385. Neglect by Guard Dog Company; Offense

- ~~(a) A license holder commits an offense if the license holder:~~
  - ~~(1) operates a guard dog company; and~~
  - ~~(2) fails to provide necessary food, care, or shelter for an animal used by the guard dog company.~~
- ~~(b) An offense under this section is a Class A misdemeanor.~~

#### § 1702.386. Unauthorized Employment; Offense

- (a) A person commits an offense if the person contracts with or employs a person who is required to hold a license, registration, certificate, or commission under this chapter knowing that the person does not hold the required license, registration, certificate, or commission or who otherwise, at the time of contract or employment, is in violation of this chapter.
- (b) An offense under Subsection (a) is a Class A misdemeanor.

#### § 1702.3863. Unauthorized Contract With Bail Bond Surety; Offense

- ~~(a) A person commits an offense if the person contracts with or is employed by a bail bond surety as defined by Chapter 1704 to secure the appearance of a person who has violated Section 38.10, Penal Code, unless the person is:~~
  - ~~(1) a peace officer;~~
  - ~~(2) an individual licensed as a private investigator or the manager of a licensed investigations company; or~~
  - ~~(3) a commissioned security officer employed by a licensed guard company.~~
- ~~(b) An offense under Subsection (a) is a state jail felony.~~

#### § 1702.3867. Execution of Capias or Arrest Warrant; Offense

- ~~(a) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety may not:~~
  - ~~(1) enter a residence without the consent of the occupants;~~
  - ~~(2) execute the capias or warrant without written authorization from the surety;~~
  - ~~(3) wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies that the private investigator is an employee, officer, or agent of the federal government, the state, or a political subdivision of the state; or~~
  - ~~(4) notwithstanding Section 9.51, Penal Code, use deadly force.~~
- ~~(b) Notwithstanding Subsection (a)(3), a private investigator may display identification that indicates that the person is acting on behalf of a bail bond surety.~~
- ~~(c) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety shall immediately take the person arrested to:~~
  - ~~(1) if the arrest is made in the county in which the capias or warrant was issued:~~
    - ~~(A) the county jail for that county if:~~
      - ~~(i) the offense is a Class A or Class B misdemeanor or a felony; or~~
      - ~~(ii) the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of that county; or~~

~~(B) the municipal jail for the appropriate municipality if the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of the municipality; or~~

~~(2) if the arrest is made in a county other than the county in which the capias or warrant was issued, the county jail for the county in which the arrest is made.~~

~~(d) A person commits an offense if the person violates this section. An offense under this section is a state jail felony.~~

#### § 1702.387. Failure to Surrender Certain Documents; Offense

(a) A person commits an offense if the person fails to surrender or immediately return to the commission the person's registration, commission, pocket card, or other identification issued to the person by the commission on notification of a summary suspension or summary denial under Section 1702.364.

(b) An offense under this section is a Class A misdemeanor.

#### ~~§ 1702.3875. Impersonating Security Officer; Offense~~

~~(a) A person commits an offense if the person:~~

~~(1) impersonates a commissioned or noncommissioned security officer with the intent to induce another to submit to the person's pretended authority or to rely on the person's pretended acts of a security officer; or~~

~~(2) knowingly purports to exercise any function that requires registration as a noncommissioned security officer or a security officer commission.~~

~~(b) An offense under this section is a Class A misdemeanor.~~

#### § 1702.388. Violation of Chapter; Offense

(a) A person commits an offense if the person violates a provision of this chapter for which a specific criminal penalty is not prescribed.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if the person has previously been convicted under this chapter of failing to hold a license, registration, certificate, or commission that the person is required to hold under this chapter.

#### § 1702.389. Venue

An offense under this chapter may be prosecuted in Travis County or in the county in which the offense occurred.

### SUBCHAPTER Q. ADMINISTRATIVE PENALTY

#### § 1702.401. Imposition of Penalty

In addition to any other disciplinary action taken by the commission, the commission may impose an administrative penalty on a person licensed, commissioned, or registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

#### § 1702.402. Amount of Penalty

(a) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The amount of each separate violation may not exceed \$200.

(b) The amount of a violation shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the economic harm to property or the public caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

#### § 1702.403. Report and Notice of Violation and Penalty

(a) If the director determines that a violation occurred, the director may issue to the commission a report stating:

- (1) the facts on which the determination is based; and
- (2) the director's recommendation on the imposition of the penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is issued, the director shall give written notice of the report to the person.

(c) The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

§ 1702.404. Penalty to be Paid or Hearing Requested

- (a) Not later than the 20th day after the date the person receives the notice, the person in writing may:
  - (1) accept the determination and recommended penalty of the director; or
  - (2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.
- (b) If the person accepts the determination and recommended penalty of the director, the commission by order shall approve the determination and impose the recommended penalty.

§ 1702.405. Hearing

- (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the director shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.
- (b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

§ 1702.406. Decision by Commission

- (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the commission by order may:
  - (1) find that a violation occurred and impose a penalty; or
  - (2) find that a violation did not occur.
- (b) The notice of the commission's order given to the person must include a statement of the right of the person to judicial review of the order.

§ 1702.407. Options Following Decision: Pay or Appeal

Not later than the 30th day after the date the commission's order becomes final, the person shall:

- (1) pay the penalty; or
- (2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

§ 1702.408. Stay of Enforcement of Penalty

- (a) Within the 30-day period prescribed by Section 1702.407, a person who files a petition for judicial review may:
  - (1) stay enforcement of the penalty by:
    - (A) paying the penalty to the court for placement in an escrow account; or
    - (B) giving the court a supersedeas bond approved by the court that:
      - (i) is for the amount of the penalty; and
      - (ii) is effective until all judicial review of the commission's order is final; or
  - (2) request the court to stay enforcement of the penalty by:
    - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
    - (B) giving a copy of the affidavit to the director by certified mail.
- (b) If the director receives a copy of an affidavit under Subsection (a)(2), the director may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

§ 1702.409. Collection of Penalty

- (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.
- (b) The attorney general may sue to collect the penalty.

§ 1702.410. Decision by Court

- (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.
- (b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

§ 1702.411. Remittance of Penalty and Interest

- (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

- (b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.
- (c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

§ 1702.412. Release of Bond

- (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.
- (b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

§ 1702.413. Administrative Procedure

A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.